

STATE PROPERTIES COMMITTEE MEETING

THURSDAY, JULY 22, 2010

The meeting of the State Properties Committee was called to order at 10:05 a.m. by Chairman Kevin M. Flynn. Other members present were John P. Ryan representing the Rhode Island Department of Administration, filling in for Robert Griffith in his absence; Richard Woolley representing the Rhode Island Department of Attorney General; Robert W. Kay, Public Member. Others in attendance were Meredith Pickering from the Rhode Island Senate Fiscal Office; Michelle Sheehan, Mary E. Kay, Terri Bisson and Richard M. Bianculli, Jr., from the Rhode Island Department of Environmental Management; Brian Peterson and Margaret Farrish from the Rhode Island Department of Children, Youth and Families; Susan Howe, Richard Kalunian, Robert B. Jackson, Paul Carcieri and Christine Brien from the Rhode Island Department of Transportation; Katherine Trapani from the Quonset Development Corporation. Nicholas Long from the law firm of Adler, Pollock and Sheehan for Rhode Island College;

Chairman Flynn noted for the record that the State Properties Committee did have a quorum present.

A motion was made to approve the minutes from the State Properties Committee meeting held on Tuesday, May 25, 2010, by Mr. Woolley and seconded by Mr. Kay.

Passed Unanimously

A motion was made to approve the minutes from the State Properties Committee meeting held on Tuesday, June 9, 2010, by Mr. Woolley and seconded by Mr. Kay.

Passed Unanimously

ITEM A –Department of Children, Youth and Families – A request was made for final approval of and signatures on a Lease Agreement by and between E.A.L. Corporation and the Department of Children, Youth and Families (the “Department”) for use of eighty (80) parking spaces located on Friendship Street and Pine Street in the City of Providence. Mr. Peterson explained that as part of a consolidation of the Department’s leases, which was accomplished in conjunction with the Department of Administration, the Pawtucket Regional Office was closed, which resulted in the State realizing a savings of almost \$500,000 per year. Mr. Peterson indicated that one of the issues that arose during the consolidation process is the lack of available parking for the additional staff that will relocate to the 101 Friendship Street facility. Mr. Peterson explained that to further complicate parking matters, the Department lost what was referred to as the triangle lot, due to the Iway Project, which supplied parking spaces for fifty (50) Department employees. Therefore, the Lease Agreement before the Committee will remedy the Department’s current parking dilemma. By way of background, Mr. Peterson explained that with the approval of the State Properties Committee, the Department issued a Request for Proposals (“RFP”) to solicit bids for an alternative parking facility to accommodate the Department’s needs. The

Department received four (4) bids, which met the specification of the RFP and two (2) bids, which were non-compliant. The proposed fees of the four (4) suitable bids are as follows:

1. E.A.L. Corporation proposed a lease fee of \$99.00, per parking space; and
2. & 3. Paolino Properties proposed a lease fees of \$125.00, per parking space, for two separate facilities; and
4. Metro Park proposed a lease fee of \$125.00, per parking space.

Mr. Peterson noted that E.A.L. Corporation was selected as the successful candidate of the RFP. Mr. Peterson explained that the only difference between E.A.L. Corporation's proposal and the others, aside from the lesser fee amount, is that it reserves the right to block vehicles within their parking spaces when necessary. Director Martinez was informed of this component of the proposal and felt that the savings to the State merited the Department's tolerance of this one inconvenience. Mr. Peterson indicated that questions regarding whether the Department would allow the blocking in of vehicles arose prior to the bidding process and the Department stated that the blocking in of vehicles would be allowed; providing all potential bidders the option to bid accordingly.

A motion was made to approve by Mr. Woolley and seconded by Mr. Ryan.

Passed Unanimously

ITEM B – Board of Governors for Higher Education/Rhode Island College –

A request was made for approval of and signatures on a License Agreement with Clear Wireless, LLC to allow for the placement of cellular telephone antennas on the new Rose Bulter Browne Hall located on the Rhode Island College Campus. Mr. Long explained that the subject License Agreement is essentially identical to four (4) existing agreements with other entities for the same purpose. Mr. Long explained that he and Mr. Woolley worked together to prepare said License Agreement. Mr. Kay asked if the assessed license fee is the standard fee for the placement of antennas on the college campus. Mr. Long stated that the fee associated with this License Agreement is the usual fee charged for this purpose. Mr. Ryan asked if Clear Wireless is required to obtain a permit from the State's Building Commission to install its equipment. Mr. Long indicated that although he is not 100% certain; he believes the Licensee is required to obtain a permit from the State's Building Commission. Mr. Woolley stated that the Agreement contains a provision requiring the Licensee to obtain government approval, which includes all necessary certificates, permits, authorizations, licenses and other approvals as required by the applicable governmental and/or regulatory authority. Mr. Woolley also stated that under the terms of the License Agreement, the Licensee has the option to install additional equipment and the College is allowed to assess an additional fee for the installation of said equipment. A motion was made to approve by Mr. Woolley and seconded by Mr. Ryan.

Passed Unanimously

ITEM C – Department of Environmental Management – A request was

made for approval of and signatures on an Indenture of Lease by and between the Department and Peter Angelone for the caretaker's residence located at Lafayette Fish Hatchery, 465 Hatchery Road in the Town of North Kingstown. Ms. Bisson explained that Mr. Angelone has been an employee of the Department for more than thirty (30) years and has leased this dwelling from the Department for in excess of eighteen (18) years. Mr. Angelone is a Principal Fisheries Biologist. Ms. Bisson stated that under the terms of the Indenture of Lease, Mr. Angelone will lease the caretaker's residence for a period of three (3) years at an annual rental rate of \$5,200. Mr. Angelone is required to provide surveillance of the property and the surrounding grounds. Additionally, Mr. Angelone is required to monitor the fish hatchery on a daily basis and respond swiftly in the event of a crisis. Ms. Bisson stated that the Department's protocol for these leases demands that the caretaker respond to alarms within one (1) hour, otherwise, the fish will perish. A motion was made to approve by Mr. Woolley and seconded by Mr. Ryan.

Passed Unanimously

ITEM D – Department of Environmental Management – A request was made for approval of and signatures on an Indenture of Lease by and between the Department of Environmental Management and Fred Chiarini for the caretaker's residence located at the Carolina Fish Hatchery, 13 Old Richmond Townhouse Road in the Town of Richmond. Ms. Bisson explained that Mr. Chiarini has been employed by the Department for over thirty (30) years. Mr. Chiarini is an Assistant District Resource Manager. The Indenture of Lease is

for a term of three (3) years with an annual rental fee of \$5,200. Ms. Bisson stated that Mr. Chiarini is also required to provide surveillance of the property and the surrounding grounds and to monitor the hatchery on a daily basis to ensure that everything is operating properly. Ms. Bisson stated that Mr. Chiarini is also bound by the Department's protocol concerning crisis response. Ms. Bisson indicated that it is critical for the Department to have caretakers residing at these hatcheries to protect this very important State asset.

A motion was made to approve by Mr. Kay and seconded by Mr. Woolley.

Passed Unanimously

ITEM E – Department of Environmental Management – A request was made for approval of and signatures on a Purchase and Sale Contract by and between the Department of Environmental Management and the Girl Scouts of America Incorporated for the acquisition of eighty-six (86) acres of land located along Gilbert Stuart Road in the Town of North Kingstown. Ms. Sheehan explained that in April of 2010, the State Properties Committee granted the Department's request for conceptual approval to acquire the subject property. Ms. Sheehan stated that said acquisition will be funded through a grant from the U.S. Fish and Wildlife and through contributions from both The Nature Conservancy and the Champlin Foundation. Ms. Sheehan noted that no State funds will be utilized for this acquisition. A motion was made to approve by Mr. Woolley and seconded by Mr. Kay.

Passed Unanimously

ITEM F – Department of Environmental Management – A request was made for approval of and signatures on an Easement Agreement by and between Phillipsdale Landing, LLC and the Department of Environmental Management for access over property to construct a fishway at Omega Pond Dam in the City of East Providence. Ms. Sheehan explained that this is a no-cost access easement that will enable both the Department of Environmental Management and Army Corp. of Engineers' staff to access the Omega Pond Dam to construct a fish ladder. Ms. Sheehan stated that due to an active railway situated near the site, the Department of Environmental Management will also enter into access agreements with both the Department of Transportation and Providence Worcester Railroad to ensure access to the site remains uninterrupted. Ms. Sheehan presented an aerial photograph of the property, which illustrated its location and the position of the railway. A motion was made to approve by Mr. Woolley and seconded by Mr. Ryan.

Passed Unanimously

ITEM G – Department of Environmental Management – A request was made for approval of a Corrective Conservation Easement and Restrictions Agreement over property located on Waterford Drive in the Town of East Greenwich. Ms. Kay noted that this particular Conservation Easement previously came before the Committee on May 19, 1992. Ms. Kay explained that this matter actually originated in the Department's Wetlands Division as part of a permit; whereby a Conservation Easement was placed on a parcel of land in East Greenwich and an eleven (11) lot subdivision was granted to the

developer, Phipps Realty. Approximately five (5) year ago, the subject property was acquired by a new owner, Middle Woods, LLC. Ms. Kay explained that upon acquiring the property, Middle Woods, LLC attempted to determine the exact location of the Conservation Easement. Ms. Kay explained that during its investigation, Middle Woods, LLC learned that the land description attached to the recorded Conservation Easement was incorrect. Middle Woods, LLC then conducted a title search, survey the land and prepared site plans. Ms. Kay stated that Middle Woods, LLC devised an alternative plan, which proposed constructing four (4) units on the property rather than the eleven (11) units previously approved. Additionally, Ms. Kay stated that Middle Woods, LLC wished to place a greater portion of the land in conservation. The updated land description consists of approximately twenty-two (22) acres of land allocated for conservation, rather than the original fifteen (15) acres. Ms. Kay stated that Middle Woods, LLC was also concerned about potential financing issues; therefore, the Corrective Conservation Easement and Restrictions Agreement contains language that allows Middle Woods, LLC to grant mortgages on the property provided said mortgages are subordinate to the Conservation Easement; which is standard procedure. A motion was made to approve by Mr. Woolley and seconded by Mr. Ryan.

Passed Unanimously

ITEM H – Department of Environmental Management – A request was made for approval of and signatures on a Consent to Assign by and between the Department and TCP Communications, Inc./GTP

Acquisition Partners II, LLC for the wireless telecommunications facility located at George Washington Management Area in the Town of Glocester. Mr. Bianculli explained that the Consent to Assign, before the Committee was originally an Agreement between the State and National Tower back in 2003, relative to a cellular tower. Mr. Bianculli stated that the State Properties Committee at approved the reassignment of said cellular tower from National Tower to TCP Communications in 2004. Mr. Bianculli stated that the tower has once again been assigned from TCP Communications to GTP Acquisition Partners. Chairman Flynn asked if the myriad re-assignments have been due to corporate acquisitions. Mr. Bianculli stated that is correct. Mr. Bianculli indicated that the Department is before the Committee seeking approval of the Consent to Assign by and between TCP Communications to GTP Acquisition Partners to ensure that said assignment is done properly in accordance with the requirements of the original Indenture of Lease dated 2003. Chairman Flynn asked if the afore-mentioned entities actually provide wireless service or whether they are the owners of the cellular towers. Mr. Bianculli explained that these entities are not providers themselves; however, they own and/or construct cellular towers and charge compensation from sub-lessees/providers that place their equipment on said towers. Mr. Kay asked if the municipalities are notified of these subsequent assignments of the towers. Mr. Bianculli stated that the municipalities and State are made aware of these activities. Ms. Kay explained that the original Indenture of Lease stipulated that any assignment must be approved by the Department of

Environmental Management as well as the State Properties Committee. A motion was made to approve by Mr. Woolley and seconded by Mr. Ryan.

Passed Unanimously

ITEM I – Department of Environmental Management – A request was made for approval of and signatures on a Consent to Sublease by and between the Department of Environmental Management and Celco Partnership (d/b/a Verizon Wireless) and a Consent to Sublease by and between the Department of Environmental Management and Cox TMI Wireless, LLC relative to the wireless telecommunications facility at George Washington Management Area in the Town of Glocester. Mr. Bianculli explained that this item concerns the same location and cellular telephone tower as described above. Mr. Bianculli stated that Cox and Verizon have placed their equipment on the tower and the Department is now seeking the approval of the Consent to Sublease by the State Properties Committee. Mr. Bianculli noted that both entities have been paying the required compensation pursuant to the original Indenture of Lease for allowing the co-location of sub-lessees on the cellular telephone tower. Mr. Bianculli indicated that the payment schedule is attached to the document as Exhibit No. 7. Chairman Flynn asked to what fund the revenue generated and realized from this tower is allocated. Mr. Bianculli stated that the revenue is allocated to the State Forestry Fund. Ms. Kay explained that the tower is erected on property, which was acquired with federal funds for forestry purposes; therefore, the revenue generated returns to a special account that is used to maintain the State's forests. Ms.

Kay explained that the Department negotiated an escalation clause for each subtenant as part of the original Indenture of Lease. Mr. Bianculli added that the Indenture of Lease is for a term of five (5) years with three (3) options to renew said Lease. Mr. Bianculli stated that each time the Indenture of Lease is renewed, there is a three (3%) percent increase for each additional sub-lessee placed on the tower and the State of Rhode Island receives an additional \$500.00, per month. A motion was made to approve by Mr. Woolley and seconded by Mr. Kay.

Passed Unanimously

ITEM J – Department of Transportation – A request was made for authorization to allow the Quonset Development Corporation to exercise the first five (5) year renewal option of its gratis Lease Agreement by and between the Department of Transportation and the Quonset Development Corporation concerning 3.6 acres of land located in the Davisville Industrial Park Area in the Town of North Kingstown. Mr. Jackson indicated that the Department is requesting the Committee's approval to allow the Quonset Development Corporation to extend the existing Lease Agreement by exercising the first five (5) year option. Chairman Flynn asked Ms. Trapani to explain the Sublease Agreement between the Quonset Development Corporation and Seaview Transportation. Ms. Trapani explained that the Sublease Agreement involves a 3.6 acre parcel of land, which is subleased gratis to Seaview Transportation Company. In turn, Seaview Transportation Company provides service to the tenants within the Business Park. Mr. Jackson stated that subject to the

Committee's approval of the Lease Agreement, the Department and the Quonset Development Corporation will return to the Committee for approval of the Sublease Agreement in the near future. Mr. Kay asked who controls the land. Mr. Jackson noted that the Department of Transportation owns and controls the land. A motion was made to approve by Mr. Woolley and Mr. Ryan.

Passed Unanimously

ITEM K – Department of Transportation – A request was made for approval of and signatures on an Assignment of License Agreement Rights and Interest by and between the Department of Transportation and Extell Providence, LLC, and U.S. Bank National Association. Mr. Carcieri stated that in March of 2010, the Committee executed a License Agreement by and between the Department of Transportation and Extell Providence, LLC (“Extell”). Mr. Carcieri explained that under said agreement, Extell is allowed to operate a parking concession consisting of approximately 29,000 square feet of land, which accommodates seventy-seven (77) vehicles. Said parking lot is located in the vicinity of the former Dyer Street property in the City of Providence. Mr. Carcieri indicated that the Department has been approached by Extell and its lender, U.S. Bank National Association, requesting an assignment of the License Agreement to the lender in the event that Extell defaults or cannot honor its commitment to U.S. Bank National Association pursuant to the License Agreement. Mr. Carcieri stated that essentially the License Agreement is being pledged to U.S. Bank National against mortgages that they have extended to Extell. Mr. Carcieri indicated that the Department of

Transportation has executed the Agreement and he is happy to answer any questions the Committee may have. Mr. Carcieri added that the License Agreement that was executed last March was for a term of one (1) year and U.S. Bank National is aware of said term; likewise, the License Agreement is terminable "at will" by the Department of Transportation and U.S. Bank National is aware of said condition as well. In fact, said condition factors into the Assignment Agreement before the Committee. Mr. Ryan stated that he understands that the Assignment of License Agreement Rights and Interest before the Committee is of no harm to the State, but suggested that the lender is not receiving a great deal of protection, given that the License Agreement is technically a month-to month agreement. Mr. Carcieri concurred, but stated that U.S. Bank National is well aware of the nature of the License Agreement and the potential risks associated with the termination language contained therein. However, the lender wants the License Agreement as a collateral pledge against the mortgage. Mr. Ryan asked the amount of compensation paid by Extell for use of the parking lot on a monthly basis. Mr. Carcieri stated that Extell pays compensation in the amount of \$7,400, per month. Mr. Carcieri reiterated that the License Agreement is revocable at will, but noted that it will expire in March of 2011 in any event. Mr. Carcieri stated that the Department's Construction Section advised him that all of the Route 195 demolition work will be concluded by the end of 2011. Mr. Carcieri indicated that the Department may choose to extend the term of the License Agreement beyond March of 2011, on a month to month basis, but

indicated that its eventual termination is certain. Mr. Woolley asked if the documents submitted to Committee this morning have been modified in any way from the documents provided to the Department of Attorney General dated July 2, 2010, as the Department of Transportation indicated that some changes would be made. Mr. Carcieri explained that the changes involve the burdens and obligations of the Agreement incumbent upon on the Assignee only, as he and Mr. Woolley previously discussed. A motion to approve was made by Mr. Woolley and seconded by Mr. Kay.

Passed Unanimously

ITEM L -Department of Transportation – A request was made for approval of and signatures on a License Agreement by and between the Department of Transportation and the Town of Jamestown to allow the Town to utilize 8,000 square feet of State-owned property within the Park and Ride located at the intersection of Boston Neck Road and Route 138 in the Town of North Kingstown for parking school buses. Chairman Flynn asked why the Town of Jamestown is seeking permission to park its buses in the Town of North Kingstown.

Ms. Brien stated that the Jamestown School Department (the “School Department”) has recently faced some very extreme budgetary issues. Ms. Brien noted that when the School Department sought a suitable contract from bus companies, the proposals received for use of the buses with parking came in at a cost \$30,000 higher than if the School Department were able to provide its own parking for the buses. Ms. Brien stated that the School Department then approached the Department of Transportation regarding use of the Park and Ride

facility located in North Kingstown for parking the school buses. Ms. Brien indicated that the School Department's use of the Park and Ride facility would be during the school-year only; not during the summer season when the facility may receive increased public use. Additionally, the buses would only be parked in the facility during after-school hours and on weekends as during regular school hours the buses will be on the road transporting students. Ms. Brien stated that the proposed parking area consists of 8,000 square feet of land located in the back portion of the lot so that it will not impact the public's normal use of the facility. Ms. Brien indicated that the School Department is seeking to park ten (10) school buses. Chairman Flynn asked if the 8,000 square foot area will some how be restricted so that vehicles belonging to the public will not inadvertently park in the portion of the lot allocated for school buses causing inconvenience to both the School Department and the public.

Ms. Brien stated that the area will some how be secured and designated for the parking of school buses only; either by signage or other means. Mr. Ryan asked if the parking spaces in said area will be striped for school buses. Ms. Brien stated that she is unsure whether the spaces will actually be striped for buses. Chairman Flynn asked what level of public use this particular Park and Ride receives. Ms. Brien stated that this facility is never filled to capacity and indicated that the Federal Highway Administration supports the proposal to allow the School Department to utilize the facility. Mr. Ryan asked if the buses are privately owned or owned by the Town of Jamestown. Ms. Brien indicated that she was unable to answer that

question at the time, but stated she would determine whether the buses are owned privately or by the Town and report back to the Committee. Mr. Woolley asked if what the time constraints are relative to this matter. Ms. Brien indicated that as the school year begins in late August or early September, the School Department is rather anxious to resolve this matter. After further discussion regarding ownership of the school buses, use of the Park and Ride facility as well as insurance/ liability issues, a motion was made to table this matter to the next meeting of the State Properties Committee to allow Ms. Brien to investigate and obtain answers to the Committee's outstanding questions by Mr. Kay and seconded by Mr. Woolley.

Passed Unanimously

ITEM M – Department of Transportation – A request was made for approval of and signatures on a License Agreement by and between ROMAR, LLC and the Department of Transportation for use of property located at 1560 Hartford Avenue in the Town of Johnston in conjunction with the Reconstruction of Hartford Avenue Project.

Ms. Howe reiterated that the subject License Agreement is associated with the Reconstruction of Hartford Avenue Project. Ms. Howe explained that a new business owner ROMAR, LLC, at the above-referenced location, merely wishes to realign the existing driveway and the curb cut to accommodate its business. Ms. Howe indicated that there is no monetary compensation associated with said License Agreement. A motion was made to approve by Mr. Kay and seconded by Mr. Woolley.

Passed Unanimously

The Committee moves to go into Executive Session, pursuant to Rhode Island General Law 42-46-5(a)(5) for the specific purpose of discussion or consideration related to the acquisition or lease of real property for public purpose, or of the disposition of publicly held property wherein advanced public information would be detrimental to the interest of the public.

A motion to enter Executive Session was made by Mr. Woolley and seconded by Mr. Ryan. A roll call vote was taken and the votes were as follows: Mr. Ryan voted “Aye”, Mr. Kay voted “Aye”, Mr. Woolley voted “Aye” and Chairman Flynn voted “Aye”.

The Committee returned to the open session of the State Properties Committee meeting at 10: 50 a.m.

ITEM E1 – Department of Transportation – A request was made for authorization to acquire a right of way for the installation of a traffic signal device at Post Road and Norwood Avenue in the City of Warwick by virtue of Condemnation Plat 2736. After a discussion during Executive Session, a motion to approve was made by Mr. Woolley and seconded by Mr. Kay.

Passed Unanimously

There being no further business to come before the State Properties Committee, the meeting was adjourned at 10:51 a.m. The motion to adjourn was made by Mr. Woolley and seconded by Mr. Ryan.

Passed Unanimously

Holly H. Rhodes, Executive Secretary